

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007

# A Bill

HOUSE BILL 2301

4  
5 By: Representative Greenberg  
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## For An Act To Be Entitled

8  
9 AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS  
10 CODE TO CLARIFY POSSESSION OF HANDGUNS AND  
11 CONCEALED HANDGUNS BY LAW ENFORCEMENT OFFICERS;  
12 TO REPEAL ARKANSAS CODE § 12-15-201; AND FOR  
13 OTHER PURPOSES.  
14

## Subtitle

15  
16 TO AMEND VARIOUS SECTIONS OF THE  
17 ARKANSAS CODE TO CLARIFY POSSESSION OF  
18 HANDGUNS AND CONCEALED HANDGUNS BY LAW  
19 ENFORCEMENT OFFICERS.  
20  
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code § 5-73-119 is amended to read as follows:

25 5-73-119. Handguns - Possession by minor or possession on school  
26 property.

27 (a)(1) No person in this state under eighteen (18) years of age shall  
28 possess a handgun.

29 (2)(A) A violation of subdivision (a)(1) of this section is a  
30 Class A misdemeanor.

31 (B) A violation of subdivision (a)(1) of this section is a  
32 Class D felony if the person has previously:

33 (i) Been adjudicated delinquent for a violation of  
34 subdivision (a)(1) of this section;

35 (ii) Been adjudicated delinquent for any offense  
36 that would be a felony if committed by an adult; or



1 (iii) Pleaded guilty or nolo contendere to or been  
 2 found guilty of a felony in circuit court while under eighteen (18) years of  
 3 age.

4 (b)(1) No person in this state other than a certified law enforcement  
 5 officer, law enforcement officer, correctional officer, or a member of the  
 6 armed forces acting in the course and scope of his or her official duties  
 7 shall possess a firearm:

8 (A) Upon the developed property of a public or private  
 9 school, K-12;

10 (B) In or upon any school bus; or

11 (C) At a designated bus stop as identified on the route  
 12 list published by a school district each year.

13 (2)(A) A violation of subdivision (b)(1) of this section is a  
 14 Class D felony.

15 (B) No sentence imposed for a violation of subdivision  
 16 (b)(1) of this section shall be suspended or probated or treated as a first  
 17 offense under § 16-93-301 et seq.

18 (c)(1) No person in this state other than a certified law enforcement  
 19 officer, law enforcement officer, correctional officer, or a member of the  
 20 armed forces acting in the course and scope of his or her official duties  
 21 shall possess a handgun upon the property of any private institution of  
 22 higher education or a publicly supported institution of higher education in  
 23 this state on or about his or her person, in a vehicle occupied by him or  
 24 her, or otherwise readily available for use with a purpose to employ the  
 25 handgun as a weapon against a person.

26 (2) A violation of subdivision (c)(1) of this section is a Class  
 27 D felony.

28 (d) "Handgun" means a firearm capable of firing rimfire ammunition or  
 29 centerfire ammunition and designed or constructed to be fired with one (1)  
 30 hand.

31 (e) It is a defense to prosecution under this section that at the time  
 32 of the act of possessing a handgun or firearm:

33 (1) The person is in his or her own dwelling or place of  
 34 business or on property in which he or she has a possessory or proprietary  
 35 interest, except upon the property of a public or private institution of  
 36 higher learning;

1           ~~(2) The person is a law enforcement officer, correctional~~  
 2 ~~officer, or member of the armed forces acting in the course and scope of his~~  
 3 ~~or her official duties;~~

4           ~~(3)~~(2) The person is assisting a law enforcement officer,  
 5 correctional officer, or member of the armed forces acting in the course and  
 6 scope of his or her official duties pursuant to the direction or request of  
 7 the law enforcement officer, correctional officer, or member of the armed  
 8 forces;

9           ~~(4)~~(3) The person is a licensed security guard acting in the  
 10 course and scope of his or her duties;

11           ~~(5)~~(4) The person is hunting game with a handgun or firearm that  
 12 may be hunted with a handgun or firearm under the rules and regulations of  
 13 the Arkansas State Game and Fish Commission or is en route to or from a  
 14 hunting area for the purpose of hunting game with a handgun or firearm;

15           ~~(6) The person is a certified law enforcement officer;~~

16           ~~(7)~~(5) The person is on a journey, unless the person is eighteen  
 17 (18) years of age or less;

18           ~~(8)~~(6) The person is participating in a certified hunting safety  
 19 course sponsored by the commission or a firearm safety course recognized and  
 20 approved by the commission or by a state or national nonprofit organization  
 21 qualified and experienced in firearm safety;

22           ~~(9)~~(7) The person is participating in a school-approved  
 23 educational course or sporting activity involving the use of firearms; or

24           ~~(10)~~(8) The person is a minor engaged in lawful marksmanship  
 25 competition or practice or other lawful recreational shooting under the  
 26 supervision of his or her parent, legal guardian, or other person twenty-one  
 27 (21) years of age or older standing in loco parentis or is traveling to or  
 28 from this activity with an unloaded handgun or firearm accompanied by his or  
 29 her parent, legal guardian, or other person twenty-one (21) years of age or  
 30 older standing in loco parentis.

31  
 32           SECTION 2. Arkansas Code § 5-73-120 is amended to read as follows:  
 33           5-73-120. Carrying a weapon.

34           (a) A person other than a certified law enforcement officer, law  
 35 enforcement officer, correctional officer, or a member of the armed forces  
 36 acting in the course and scope of his or her official duties commits the

1 offense of carrying a weapon if he or she possesses a handgun, knife, or club  
 2 on or about his or her person, in a vehicle occupied by him or her, or  
 3 otherwise readily available for use with a purpose to employ the handgun,  
 4 knife, or club as a weapon against a person.

5 (b) As used in this section:

6 (1) "Club" means any instrument that is specially designed,  
 7 made, or adapted for the purpose of inflicting serious physical injury or  
 8 death by striking, including a blackjack, billie, and sap;

9 (2) "Handgun" means any firearm with a barrel length of less  
 10 than twelve inches (12") that is designed, made, or adapted to be fired with  
 11 one (1) hand; and

12 (3)(A) "Knife" means any bladed hand instrument that is capable  
 13 of inflicting serious physical injury or death by cutting or stabbing.

14 (B) "Knife" includes a dirk, sword or spear in a cane,  
 15 razor, ice pick, throwing star, switchblade, and butterfly knife.

16 (c) It is a defense to a prosecution under this section that at the  
 17 time of the act of carrying a weapon:

18 (1) The person is in his or her own dwelling, place of business,  
 19 or on property in which he or she has a possessory or proprietary interest;

20 ~~(2) The person is a law enforcement officer, correctional~~  
 21 ~~officer, or member of the armed forces acting in the course and scope of his~~  
 22 ~~or her official duties;~~

23 ~~(3)~~(2) The person is assisting a law enforcement officer,  
 24 correctional officer, or member of the armed forces acting in the course and  
 25 scope of his or her official duties pursuant to the direction or request of  
 26 the law enforcement officer, correctional officer, or member of the armed  
 27 forces;

28 ~~(4)~~(3) The person is carrying a weapon when upon a journey,  
 29 unless the journey is through a commercial airport when presenting at the  
 30 security checkpoint in the airport or is in the person's checked baggage and  
 31 is not a lawfully declared weapon;

32 ~~(5)~~(4) The person is a licensed security guard acting in the  
 33 course and scope of his or her duties;

34 ~~(6)~~(5) The person is hunting game with a handgun that may be  
 35 hunted with a handgun under rules and regulations of the Arkansas State Game  
 36 and Fish Commission or is en route to or from a hunting area for the purpose

1 of hunting game with a handgun; or

2 ~~(7) The person is a certified law enforcement officer; or~~

3 ~~(8)(6)~~ The person is in a motor vehicle and the person has a  
 4 license to carry a concealed weapon pursuant to § 5-73-301 et seq.

5 (d)(1) Any person other than a certified law enforcement officer, law  
 6 enforcement officer, correctional officer, or a member of the armed forces  
 7 acting in the course and scope of his or her official duties who carries a  
 8 weapon into an establishment that sells alcoholic beverages is guilty of a  
 9 misdemeanor and subject to a fine of not more than two thousand five hundred  
 10 dollars (\$2,500) or imprisonment for not more than one (1) year, or both.

11 (2) Otherwise, carrying a weapon is a Class A misdemeanor.

12

13 SECTION 3. Arkansas Code § 5-73-304 is amended to read as follows:  
 14 5-73-304. Exemptions.

15 (a)(1) A certified law enforcement officer, chief of police, or  
 16 sheriff is exempt from the licensing requirements of this subchapter, ~~if~~  
 17 ~~otherwise authorized to carry a concealed handgun.~~

18 (2) Solely for purposes of this subchapter, an auxiliary law  
 19 enforcement officer certified by the Arkansas Commission on Law Enforcement  
 20 Standards and Training and approved by the sheriff of the county is deemed to  
 21 be a certified law enforcement officer.

22 (b) An auxiliary law enforcement officer is exempt from the licensing  
 23 requirements of this subchapter when:

24 (1) The auxiliary law enforcement officer has completed the  
 25 minimum training requirements and is certified as an auxiliary law  
 26 enforcement officer in accordance with the commission; and

27 (2) Specifically authorized in writing by the auxiliary law  
 28 enforcement officer's chief of police or sheriff.

29 (c) The authorization prescribed in (b)(2) of this section shall be  
 30 carried on the person of the auxiliary law enforcement officer and be  
 31 produced upon demand at the request of any law enforcement officer or owner  
 32 or operator of any of the prohibited places as set out in § 5-73-306.

33

34 SECTION 4. Arkansas Code § 5-73-306(b), concerning carrying a  
 35 concealed handgun in prohibited places, is amended to read as follows:

36 (b)(1)(A) In addition to a place enumerated in this section, the

1 carrying of a concealed handgun by a person qualified and licensed by the  
 2 Department of Arkansas State Police to carry a concealed handgun may be  
 3 disallowed in any place at the discretion of the person or entity exercising  
 4 control over the physical location of the place by placing at each entrance  
 5 to the place a written notice clearly readable at a distance of not less than  
 6 ten feet (10') that "carrying a handgun is prohibited".

7 (B)(i) If the place does not have a roadway entrance,  
 8 there shall be a written notice placed anywhere upon the premises of the  
 9 place.

10 (ii) However, there shall be at least one (1)  
 11 written notice posted within every three (3) acres of a place with no roadway  
 12 entrance.

13 (2)(A) However, no sign is required for a private home.

14 (B) Any licensee entering a private home shall notify the  
 15 occupant that the licensee is carrying a concealed handgun.

16  
 17 SECTION 5. Arkansas Code § 12-15-201 is repealed.

18 ~~12-15-201. Definitions.~~

19 ~~For purposes of this subchapter:~~

20 ~~(1) "Certified law enforcement officer" means any appointed or~~  
 21 ~~elected law enforcement officer or sheriff employed by a public law~~  
 22 ~~enforcement department, office, or agency who:~~

23 ~~(A) Works forty (40) or more hours per week;~~

24 ~~(B) Is responsible for the prevention and detection of~~  
 25 ~~crime and the enforcement of the criminal, traffic, or highway laws of this~~  
 26 ~~state; and~~

27 ~~(C) Has met the selection and training requirements for~~  
 28 ~~certification set by the Arkansas Commission on Law Enforcement Standards and~~  
 29 ~~Training; and~~

30 ~~(2) "Public law enforcement department, office, or agency" means~~  
 31 ~~any public police department, sheriff's office, or other public agency,~~  
 32 ~~force, or organization whose primary responsibility as established by law,~~  
 33 ~~statute, or ordinance is the enforcement of the criminal, traffic, or highway~~  
 34 ~~laws of this state.~~

35  
 36 SECTION 6. Arkansas Code § 12-15-202(b), concerning a concealed

1 handgun carried by a retired law enforcement officer, is amended to read as  
2 follows:

3 (b)(1) A concealed handgun may be carried by any retired law  
4 enforcement officer who:

5 (A) Retired from service with a public law enforcement  
6 department, office, or agency for reasons other than mental disability;

7 (B) Immediately before retirement was a certified law  
8 enforcement officer authorized by a public law enforcement department,  
9 office, or agency to carry a firearm in the course and scope of his or her  
10 duties;

11 ~~(C) Has nonforfeitable rights to benefits under the~~  
12 ~~retirement plan of a public law enforcement department, office, or agency;~~

13 ~~(D)~~(C) Is carrying appropriate written identification  
14 issued by a public law enforcement department, office, or agency identifying  
15 him or her as a retired and former certified law enforcement officer;

16 ~~(E)~~(D) Is not otherwise prohibited under federal law; and

17 ~~(F)~~(E) Has fingerprint impressions on file with the  
18 Department of Arkansas State Police together with written authorization for  
19 state and national level criminal history record screening.

20 (2)(A) The chief law enforcement officer of the city or county  
21 shall keep a record of all retired law enforcement officers authorized to  
22 carry a concealed handgun in his or her jurisdiction and shall revoke any  
23 authorization for good cause shown.

24 (B) The Director of the Department of Arkansas State  
25 Police shall keep a record of all retired department officers authorized to  
26 carry a concealed handgun in the state and shall revoke any authorization for  
27 good cause shown.

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